

### REMARKS

Claims remaining in the present application are Claims 1-20. Claims 1 and 11 have been amended. The drawings have been amended. Replacement drawing sheets and annotated drawing sheets have been attached to this response. The instant specification has been amended. No new matter has been added as a result of these amendments. An Information Disclosure Statement (IDS) has been filed herewith.

### SPECIFICATION

The instant specification has been amended to include a reference to a related application. No new matter has been added as a result of this amendment.

The instant specification has been amended to include a brief description of a synchronization process in the background art section. No new matter has been added as a result of this amendment. A brief description of this synchronization process is included in the written description of the present application as filed at page 14, lines 14-17 et seq. Applicants respectfully assert that inclusion of this description is acceptable in the written description.

The "Description of Related Art" section is objected to. The rejection asserts that this section must contain all known prior art subject matter that is used in the claims. Applicants have filed herewith an Information Disclosure Statement.

The title of the invention has been objected to. It is respectfully submitted that the title as amended is clearly indicative of the invention to which the claims are directed. Moreover, it is respectfully submitted that Applicant's title as filed is short and specific, per 37 C.F.R. §1.72(a). Applicants respectfully submit that while the Examiner may require a change in the title if it is not descriptive of the invention claimed, the title is not to

demarcate the precise boundaries of the claimed invention but rather to provide a useful reference tool for future classification purposes. See, for example, *Pitney Bowes Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 51 USPQ 2d 1161 (Fed. Cir. 1999).

Certainly, the district court is correct that Section 606.01 of the M.P.E.P. provides that the examiner may require a change in the title if the proffered "title is not descriptive of the invention claimed." However, Section 606.01 goes on to explain that "[t]his may result in slightly longer titles, but the loss in brevity of the title will be more than offset by the gain in its informative value in indexing, classifying, searching, etc." Thus, as indicated by the M.P.E.P., the purpose of the title is not to demarcate the precise boundaries of the claimed invention but rather to provide a useful reference tool for future classification purposes (emphasis added).

Applicants respectfully submit that the title as filed will provide a useful reference tool for future classification purposes and is therefore proper. Moreover, Applicants object to the Examiner's title as going beyond providing a useful reference tool. Rather, it may tend to improperly demarcate the boundaries of the claimed invention, which is the subject matter of the claims.

The rejection has suggested using the term "Internet" in the title. Applicants respectfully assert that the use of the term "Internet" will not make the title more useful for indexing, classifying, and searching. Rather, this term may tend to improperly demarcate the boundaries of the claimed invention, which is the subject matter of the claims. In fact, Applicants respectfully assert that embodiments of the present invention are not limited to the Internet. For example, none of the claims as filed, or as currently amended, are limited to the Internet. Therefore, Applicants respectfully assert that using the term "Internet" in the title would not reflect the invention claimed. For the foregoing reasons, Applicants contend that the term "Internet" should not be used in the title.

The rejection further suggests adding the terms "collect", "store", and "share" to the title. Applicants respectfully assert that the use of these terms will not make the title

more useful for indexing, classifying, and searching. Rather those terms may tend to improperly demarcate the boundaries of the claimed invention, which is the subject matter of the claims.

The rejection suggests adding the word "improved" to the title. Applicants respectfully point out that use of words such as "improved" is discouraged in the title (see, e.g., MPEP 606).

Moreover, Applicants direct the Examiner's attention to 37 C.F.R. §1.72, which reads, "[t]he title of the invention...must be as short and specific as possible." Applicants further direct the Examiner's attention to the Manual of Patent Examining Procedure (MPEP) 608.01(a), which suggests that the title should preferably be between two and seven words. As such, the Applicants have reduced the length of the title from nine words to eight words by deleting the words "method for" and adding the term "software" to modify the term "application." Applicants request approval of the amended title.

### DRAWINGS

The drawings have been objected to. Figure 6 has been objected to as containing only prior art. Applicants respectfully contend that amended Figure 6 is not only prior art, but depicts a computer system that, as configured by embodiments of the present invention, is operable to implement embodiments of the present invention. Applicants have amended Figure 6 by including a depiction of instructions 111 that may be stored in a computer readable medium and executed on a processor to implement embodiments of the present invention. Applicants have amended the specification to add the reference numeral "111" to the description of Figure 6. Support for this amendment may be found in the instant specification at least at page 6, line 12 - page

7, line 13; page 12, lines 2-4; and page 16, lines 9-10. Applicants respectfully submit that amended Figure 6 does not illustrate only that which is old. As such, Applicants respectfully assert that Figure 6 should not be labeled as "Prior Art."

Figure 2 is objected to for informalities. Figure 2 has been amended to add a label to the repository 202 indicating that elements 206a-d are "usage data". The rejection states that Figure 2 fails to show connections to the Internet. Applicants respectfully contend that a connection to the Internet need not be depicted for the following reasons. Applicants direct the Examiner's attention to the instant specification at page 2, lines 8-18, which describes Figure 2. Figure 2 depicts a number of devices 150 each running a version of an application 160a-d. Usage data 260a-d from the devices 150 is transferred to the repository 202. Applicants note that the description does not mention the Internet. This embodiment of the present invention does not require the use of the Internet in order to transfer the usage data to the repository, although one of ordinary skill in the art will appreciate that the Internet could be used, if desired. Thus, Applicants respectfully assert that Figure 2 is correctly drawn without a connection to the Internet.

#### INFORMATION DISCLOSURE STATEMENT

The Examiner has requested information related to publications that were used as a source for the description of the background art. The Applicants have filed an Information Disclosure Statement herewith.

#### CLAIM REJECTIONS

##### 35 U.S.C. §103

Claims 1-20 are rejected under 35 U.S.C. §103 as being unpatentable over Davis et al. U.S. Patent No. 5,796,952 in view of Applicants' admitted prior art. The rejection is respectfully traversed for the following reasons.

Claim 1 recites:

A method of automatically tracking content usage comprising:  
a) accessing a first program call having a parameter identifying a first portion of content whose usage is to be measured for content related to the calling program;  
b) in response to said first program call, measuring usage for said first portion of content; and  
c) repeating said steps a) and b) for additional portions of content to be measured, wherein content usage is tracked for a plurality of portions of content identified by a plurality of program calls.

Claim 1 recites an embodiment in which a calling program is able to initiate tracking of content usage that is related to the calling program itself. This allows, for example, developers of application programs to control the usage statistics that are gathered for their application programs by incorporating an API call into their programs. Claim 1 recites that a first program call is accessed, wherein the program call has a parameter that identifies content whose usage is to be measured for content related to the calling program. Applicants respectfully assert that the prior art fails to teach or suggest this claimed limitation.

The rejection concedes that Davis fails to teach this claimed limitation. Applicants assert that Davis also fails to suggest this claimed limitation. The rejection refers to art that the Applicants have cited at page 1, lines 23-24 of the instant specification (referred to in the rejection as "Applicants admitted prior art"). The relevant passage reads as follows:

One conventional method of tracking application usage provides software which monitors application usage in terms of duration and battery usage on the device.

Applicants do not understand this passage to teach or suggest this claimed limitation. For example, the cited prior art may monitor application usage in terms of duration and

battery usage on the device. However, Applicants do not understand the cited art to teach that the application programs may perform an API call that initiates tracking of their own content. Rather, the prior art appears to be able to track the number of times an application was launched, the last time/date that an application was launched, the battery usage of the application, the total accumulated time that an application has run, and a ranking based on the number of times the application was launched.

First, Applicants do not understand the above-mentioned items to be measures of content related to the calling application. Rather, they are measures of usage of the entire application. Second, Applicants do not understand this art to allow the application program to place an API call that defines what content is to be measured for the calling application. In fact, the application for which measuring is performed does not appear to have control of what content is measured.

For the forgoing reasons Claim 1 is neither taught nor suggested by Davis in view of "applicants admitted prior art." Therefore, Applicants respectfully request allowance of Claim 1.

Amended Claim 11 recites:

A method of automatically tracking software usage, said method comprising the steps of:  
a) collecting usage data for a software program having a plurality of versions, said collection taking place on a plurality of electronic devices;  
b) associating a unique identifier with said usage data for at least two of said plurality of versions, wherein usage data for different versions of said software program are identifiable as related to said software program; and  
c) transferring said usage data to a repository, wherein said usage data collected on said plurality of devices for said at least two versions of said software program is merged.

Claim 11 is directed towards an embodiment that tracks software usage for a software program that has more than one version. This embodiment collects usage data for the

software program having multiple versions. A unique identifier is associated with the usage data such that usage data related to different versions of the software program may be identified as being associated with the same software program. The usage information is transferred to a repository and the usage data for the multiple versions of the software program are merged.

Davis fails to teach or suggest the limitations of Claim 11. Davis teaches a method for monitoring client interaction with a resource downloaded from a server (Abstract). Davis may teach that the user may be running a wide variety of web-browsers when interacting with the resource on the server. However, Applicants do not understand Davis to teach or suggest that the resource that the client is interacting with has multiple versions, which are tracked as claimed by the Applicants.

Davis fails to teach or suggest the claimed, "associating a unique identifier with said usage data for at least two of said plurality of versions." This claimed association allows usage data for different versions of the software program to be identifiable as related to the software program, as claimed in Claim 11 (wherein usage data for different versions of said software program are identifiable as related to said software program). Davis may teach the use of a client ID or "cookie." However, a client ID or cookie would not allow different versions of a software program being executed on different devices to be tracked. For example, if version 1 of the program is being tracked on device 1 and version 2 of the program is being tracked on device two, associating the client IDs of the respective devices does not help to track the different versions of the program in the claimed fashion. That is, the associating the client ID in this fashion will not allow the different versions of the software program to be identifiable as related to the software program, as Applicants have claimed.

Applicants further assert that Davis fails to teach or suggest the claimed limitation of merging the usage data for the multiple versions of the software program. Applicants have already illustrated that Davis teaching associating client ID with the resource does not allow merging the usage data for the multiple versions of the software program, as claimed.

For the foregoing reasons, the combination of Davis and the "Applicants admitted prior art" fails to teach or suggest the limitations of Claim 11. Therefore, the Applicants request allowance of Claim 11.

Claim 16 recites, in part

a) accessing a call from a software program, said call specifying a first content identifier, said first content identifier identifying content related to said software program whose usage is to be measured;

For at least the reasons discussed in the response to Claim 1, the limitations of Claim 16 are neither taught nor suggested by Davis in view of "applicants admitted prior art."

Claims 2-10, 12-15, and 17-20 depend from Claims 1, 11, and 16, which are believed to be allowable for the foregoing reasons. Therefore, these dependent claims are believed to be allowable.

### CONCLUSION


Attached is an Information Disclosure Statement filed under 37 CFR § 1.32 (b), replacement drawing sheets, and amended drawing sheets showing changes made to the drawings.

In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the arguments and amendments presented above, it is respectfully submitted that Claims 1-20 overcome the rejections of record and, therefore, allowance of Claims 1-20 is solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,  
WAGNER, MURABITO & HAO LLP

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# Replacement Sheet

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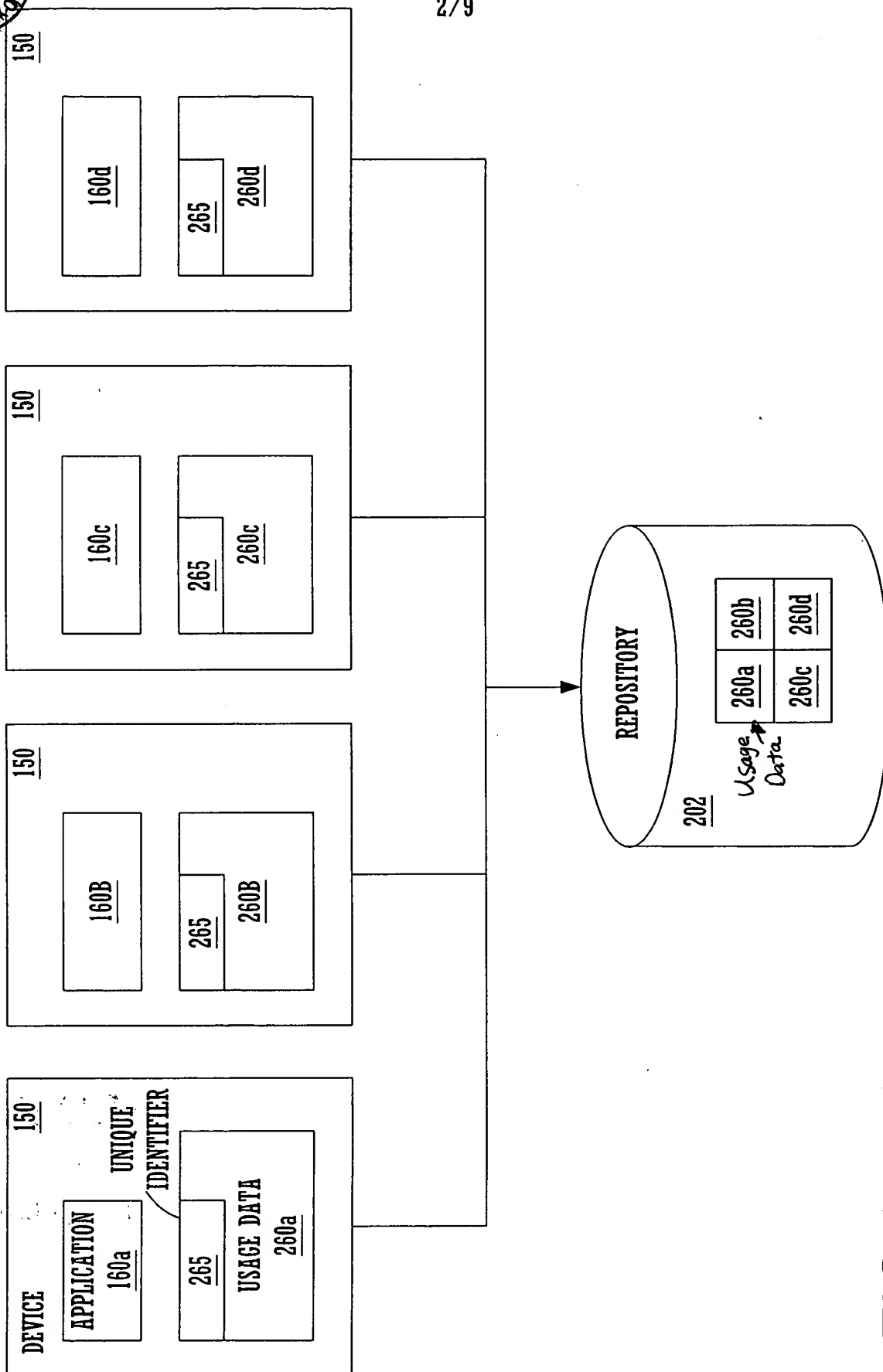


FIGURE 2



Replacement Sheet

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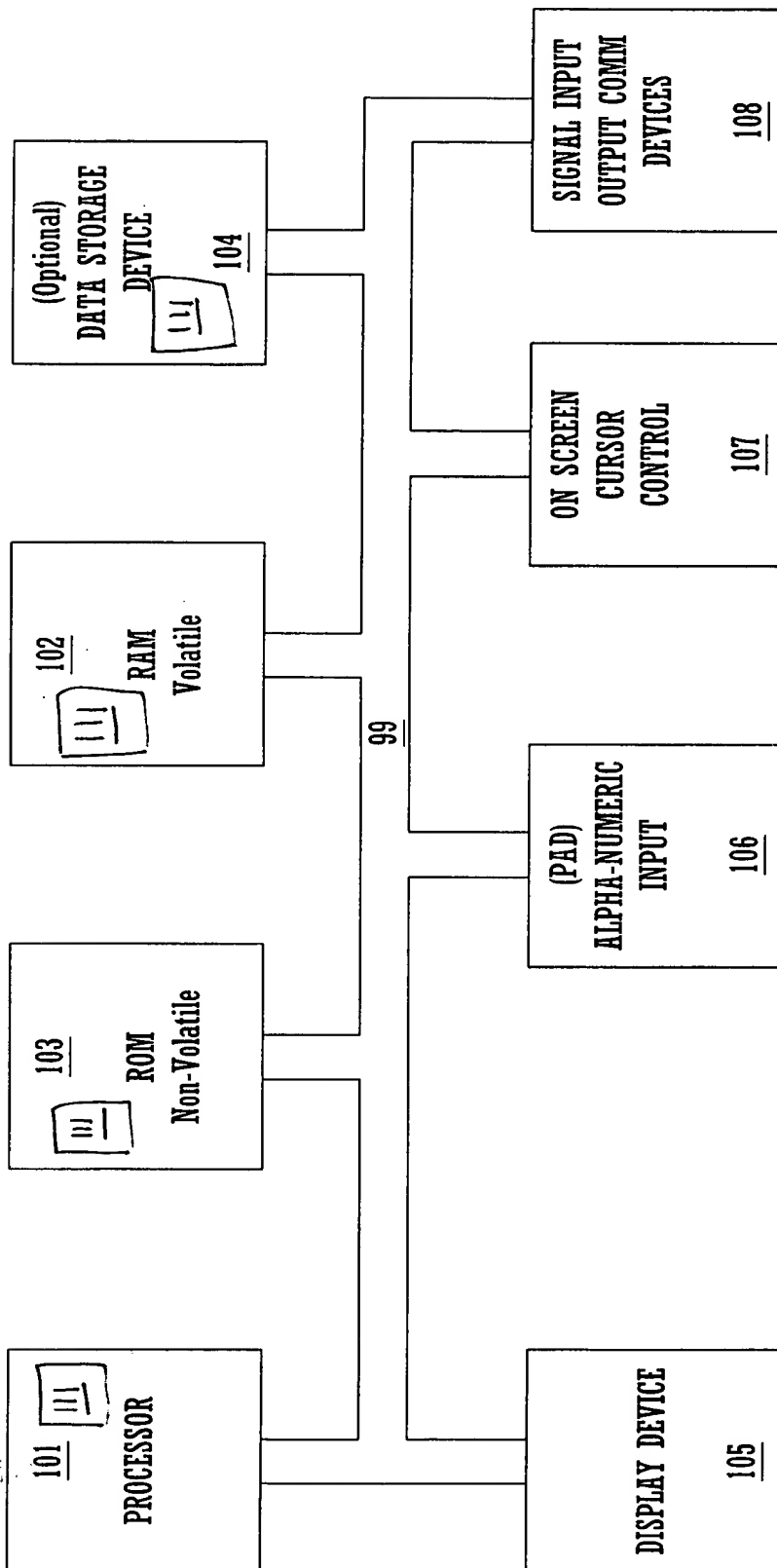


FIGURE 6

Annotated Sheet Showing Changes Made

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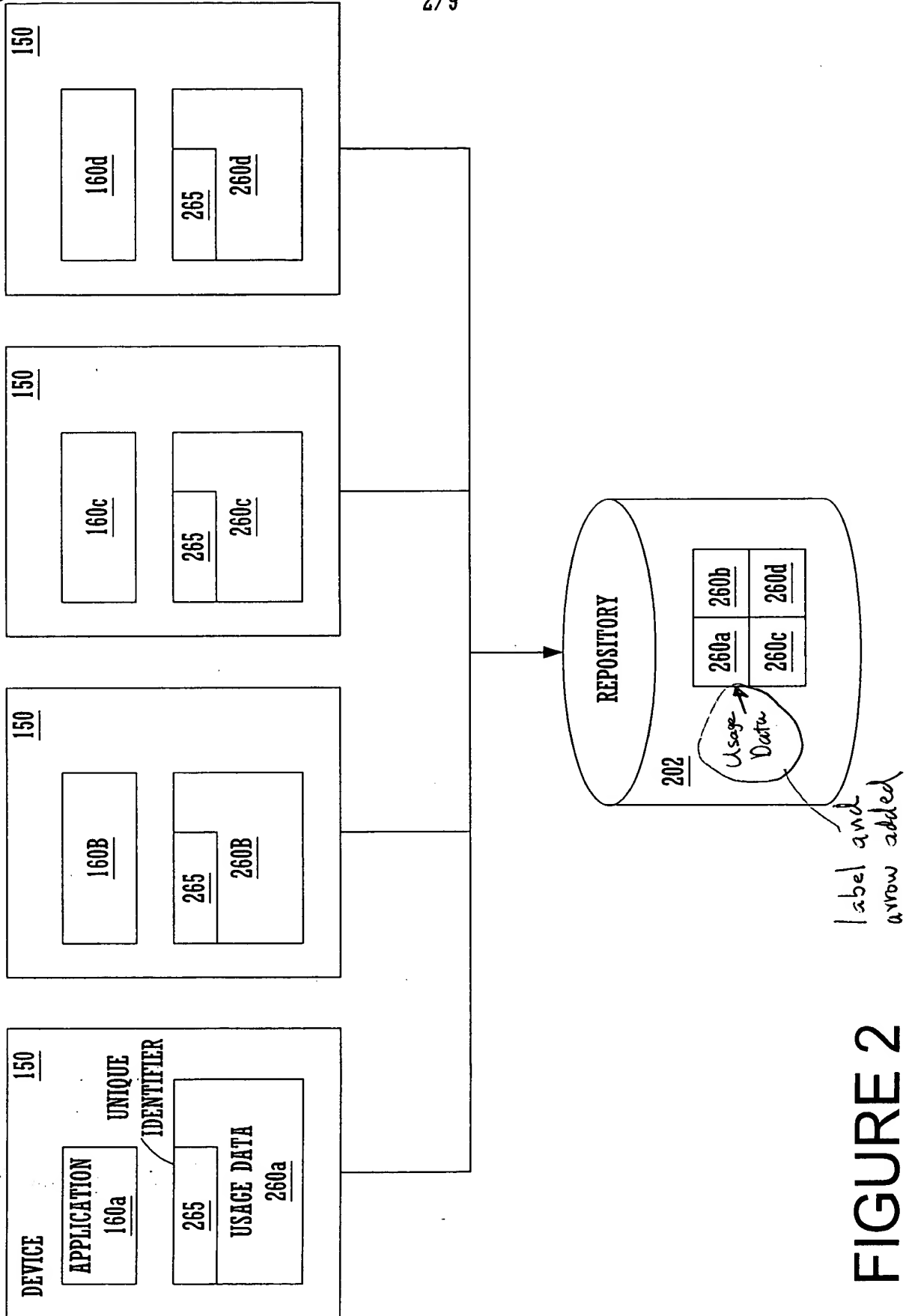


FIGURE 2



Annotated Sheet to Show Changes  
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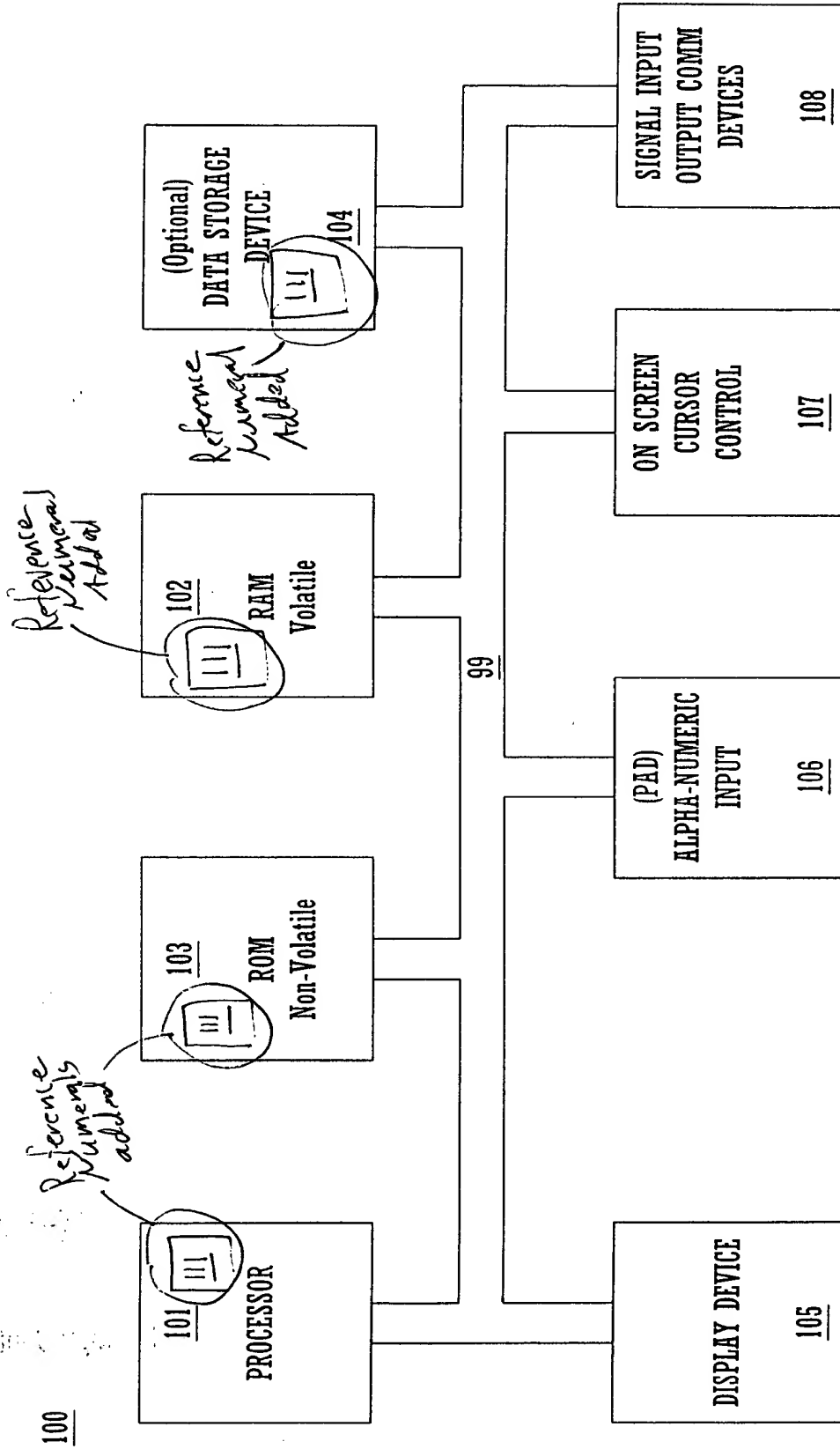


FIGURE 6